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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventh session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 4 December 1992, at 3.30 p.m.

Chairman: Mr. ALSTON

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GE.92-18761 (E)

The meeting was called to order at 3.25 p.m.

CONSIDERATION OF REPORTS (agenda item 5) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Panama (E/1989/5/Add.8, E/C.12/WG/1992/CRP.5/Rev.1)

1. At the invitation of the Chairman, Mr. Velasquez and Mrs. Vallarino (Panama) took places at the Committee table.

2. Mr. VALASQUEZ (Panama) said that his delegation was at the Committee's disposal to answer questions on the additional information submitted by Panama in document E/1989/5/Add.8. In so far as the document was not, strictly speaking, a report, the additional information did not contain specific new data on the implementation of economic, social and cultural rights in Panama.

3. The CHAIRMAN reminded the delegation of Panama that the object of the exercise was to shed light on certain issues raised by the Pre-sessional Working Group to enable the Committee to adopt the concluding observations on Panama.

4. Mr. SIMMA noted that in paragraphs 26 and 27 of the additional information submitted by Panama (E/1989/5/Add.8), it was stated that the Ambassador of Panama in Geneva would reply to his questions and those of Mr. Wimer Zambrano. He would therefore like to have answers to those questions.

5. Mr. VELASQUEZ (Panama) asked the members of the Committee to remind him of those questions.

6. The CHAIRMAN wondered whether it was really necessary, at that stage, to repeat those questions. He recalled that the paper submitted by Panama was dated 22 April 1992 and that it was supposed to be based on the summary records of the Committee's sixth session which contained the questions put by the members of the Committee.

7. Mr. NENEMAN considered that the additional information submitted by Panama did not provide clear answers to the questions raised by the members of the Committee. The document frequently stated that "No information is available at this time". He would like to know when and in what form that information would be available. Without these replies, the Committee could not advance in its work. He proposed, therefore, that the Committee should reconsider the additional information at a later date.

8. The CHAIRMAN said he thought that the Committee should mention in its concluding observations on Panama that the dialogue had not been satisfactory on certain points, specifying what those points were.

9. Mr. SIMMA explained that his question had focused on the right to housing, the evictions that had occurred in Panama City and the situation of the victims of the El Chorillo shellings. Although it was true that in some respects the concerns of the Committee were no longer justified, as in the case of the victims who had taken refuge at the Albrook Field shelter, and who had been relocated (E/1989/5/Add.8, para. 94), the problem of housing in Panama nevertheless seemed to be very pressing. He proposed that the Committee should invite Panama, as it had done in the case of the Dominican Republic, to agree to a mission, consisting of one or more representatives of the Committee, to visit the country in order to study the question at first hand.

10. Moreover, he found it unacceptable that a Government should ask for corrections to be incorporated in the text of the Committee's draft report, as the Panamanian Government had done in paragraphs 64 to 87 of document E/1989/5/Add.8. He was surprised that the secretariat had included in the draft report certain of the amendments requested by Panama without consulting the members of the Committee, since the Committee alone could decide to amend its draft report. The changes which the secretariat had seen fit to make to the draft report had fortunately not affected matters of substance, but a question of principle was involved and it was important to emphasize the fact that only the Committee could make changes to the documents it adopted.

11. The CHAIRMAN said he understood that the Rapporteur had been consulted on the matter and pointed out that the material changes which Panama had requested in respect of the substance had not been accepted.

12. Turning to the question of current concern to the Committee, he recalled that the Committee had before it two proposals, one to defer consideration of the additional information submitted by Panama and the other to offer to Panama the services of one or more representatives of the Committee to study the questions raised at first hand.

13. Mr. VELASQUEZ (Panama) considered that the contents of the Committee's report on its sixth session did not correspond exactly to what the delegation of Panama had said at that session. Consequently, the delegation of Panama was entitled to propose amendments, which should be reflected in the summary record of that meeting.

14. With regard to the right to housing, he stressed that his country, like many other developing countries, experienced, inter alia, housing problems. Nevertheless, some of those problems which were linked to the aftermath of the invasion of Panama, had been resolved since the previous year.

15. Mr. SIMMA considered that, even if the Committee made do with the additional information submitted by Panama in document E/1989/5/Add.8, it should state, in its concluding observations, that it could certainly not accept the observations appearing in paragraphs 64 et seq.

16. With regard to the right to housing, he pointed out that the issue raised referred to events in 1990 and not to the current situation in respect of new housing. Moreover, the situation in respect of evictions continued to give concern. He quoted, as an example, the evictions that

had taken place in Panama Viejo, with the participation of the American armed forces, as seen in the photographs he had shown to the Committee.

17. The CHAIRMAN said that the Committee ought not to enter into a discussion on specific matters; the best solution would certainly be to propose to Panama that a member of the Committee should be sent to study the question at first hand. The Committee could not confine itself to noting that it was confronted with contradictory information.

18. Mr. TEXIER stated that he had in his possession a document prepared by the NGO Habitat International Coalition, which had carried out a mission in Panama from 13 to 16 November 1992 in order to establish the veracity of the acts reported during the Committee's sixth session. He considered that the Committee could not allow any inconsistency to remain between its report, for which it was bound to assume entire responsibility, and the statements by States parties which contested that report. It was therefore important to shed light on the subject. Accordingly, he supported the proposal to send a member of the Committee to study the question on the spot. That solution would make it possible to break the current deadlock and, in addition, would create a precedent.

19. The CHAIRMAN pointed out that there was already a precedent since the Committee had already envisaged such a course in the case of another State and the Economic and Social Council had ratified it in principle.

20. Mrs. BONOAN-DANDAN strongly supported the proposal to send an expert on mission, considering that the Committee's integrity was at stake. However useful the work performed by the non-governmental organization in question might be, the Committee was duty bound to establish the facts itself in order to demonstrate to States parties that, while receptive to outside sources of information, it relied only on itself to ascertain the truth.

21. Mr. SPARSIS reminded the Committee that the procedure of the on-the-spot verification of conflicting information or alleged human rights violations was not particularly new in the United Nations system. On that basis, the Committee might consider entrusting the task of conducting such a verification to a third party which it would appoint but which would act in complete independence.

22. Mr. VELASQUEZ (Panama) acknowledged that the disorders that had followed the invasion of Panama could indeed have given rise to violations of the human rights instruments as well as to the Geneva Convention relative to the Protection of Civilian Persons in Time of War and have compelled some people who had lost their homes to make do with temporary makeshift accommodation or to occupy public buildings, such as schools. Nevertheless, the authorities had finally assigned those persons new accommodation or granted them compensation to enable them to be rehoused. However, some of those people must have considered that the makeshift accommodation to which they had moved was perfectly adequate. In such a case, the authorities had had no choice but to evict them, by no means an easy matter in view of the very strict legislative provisions which protected tenants in Panama. There was therefore every reason to believe that the photos referred to at the present meeting had been taken during that critical period which had followed the invasion and

which had been of very limited duration, particularly since they depicted United States troops who were no longer involved in that kind of operation. He asked whether the photos bore a date and, if so, what it was.

23. With regard to the document to which Mr. Texier had referred, he could not speak about the contents of a document which he had not received and with whose author, supposedly a non-governmental organization, he was not acquainted. He personally would hesitate to give credence, without other evidence, to statements by that kind of organization, since he had observed that some of them, under cover of defending human rights, actually pursued political goals and took advantage of every opportunity to sabotage an elected Government or justify dictatorship, communist or other. He would like to have more detailed information on the document in question.

24. Mr. SIMMA said that the photos dated from 22 March 1990; he read out an article which had appeared on the following day in the Panamanian newspaper Critica Libre which reported that in the early hours of the previous day, some 250 families had been evicted from land belonging to the State which they had occupied for several months at Panama Viejo and that approximately 100 members of the anti-riot squad of the Panamanian forces of law and order had forced the squatters to leave their shelters, which they had proceeded to destroy. The Panamanian Government formally denied that kind of action, in paragraph 95 of the document containing its additional information. In his view, however, the Critica Libre newspaper appeared to report the events objectively and to be neither left-wing nor subversive. The only way of settling the matter would be to send an expert to investigate.

25. The CHAIRMAN noted that those experts who had spoken had all supported the idea of considering at the appropriate time the draft recommendations by the Pre-sessional Working Group (E/C.12/WG/1992/CRP.5/Rev.1) on the additional information provided by the Panamanian Government and of proposing that an expert should be sent to Panama to establish the facts relative to the issues raised by the Committee. If there was no objection, he would take it that the Committee decided to proceed in that way.

26. It was so decided.

27. Mrs. VALLARINO (Panama) said that the Panamanian Government fully intended to give complete satisfaction to the Committee. In that spirit, it had endeavoured to answer, in the document containing its additional information, all the issues outstanding pursuant to the Committee's consideration of its report in 1991. If there were any questions that were not settled, her delegation would be prepared to provide all possible information in the same way as the Government would do so in writing, if such were the procedure to be followed. She requested the Committee to prepare, if appropriate, a list of the issues on which it would like to have further details. She would be obliged if the Committee would forward a copy of the document published by the non-governmental organization in question to the Panamanian authority to enable them to reply to it in writing. She would also like to know to which precedent the Committee referred in offering to send a fact-finding mission to Panama. The Commission on Human Rights, for instance, undertook such action only in the case of serious violations. Finally, she asked the Commission whether it could not postpone its decision.

28. The CHAIRMAN said that he should explain that treaty bodies, by their mandate and methods of work, were completely different from the Commission on Human Rights and the offer made by the Committee on Economic, Social and Cultural Rights to send an expert on a fact-finding mission in a spirit of dialogue could not be compared to the appointment, by the Commission on Human Rights, of a special rapporteur to investigate alleged violations. He repeated that the idea of sending missions to the field had already been proposed by the Committee and specifically approved by the Economic and Social Council. Further, it should be noted that at their 1992 meeting, the chairpersons of the international treaty monitoring bodies had agreed to encourage that procedure, which guaranteed the effectiveness of those bodies; the Committee on the Rights of the Child, for instance, had introduced a process of on-the-spot inspections, while the Chairman of the Committee on the Elimination of Racial Discrimination had informed the Preparatory Committee of the World Conference on Human Rights of the desire of the Committee on the Elimination of Racial Discrimination to adopt such a way of working, which would give satisfaction to all concerned, including the States parties. Consequently, the Committee on Economic, Social and Cultural Rights was not overstepping the limits of the procedure laid down by the treaty bodies as a whole by proposing to the Panamanian Government that it should send an expert to elucidate the facts. It had no purpose other than to pursue the dialogue with the State party and to give it an opportunity to make known its point of view. That offer, further, did not prevent the Panamanian Government from replying to the questions put by the Committee by providing additional information in writing, of which the Commission could take note with satisfaction when it adopted the Working Group's draft recommendations in respect of Panama.

29. Mrs. VALLARINO (Panama) thanked the Chairman for the information. She said that the Panamanian Government, which was a democratic Government, would welcome any member of the Committee who wished to visit Panama. However, she would very much like the Committee to postpone its decision and to give the Government an opportunity to study the report by the non-governmental organization in question, to communicate its view on the contents of the document to the Committee and to submit in writing any further details which the Committee might request. She was confident that those written answers would give full satisfaction to the Committee and that there would be no need to send an expert on the spot.

30. Mr. SIMMA indicated that the organization in question had just informed him that it could make a copy of its document available to the representatives of the State party concerned on Monday, 7 December.

31. The CHAIRMAN pointed out that the Committee would, in any event, have to revert to any outstanding issues when the time came to adopt the concluding observations on Panama and he inquired whether the experts wished to take advantage of that opportunity to reflect further on the decision they had taken.

32. Mrs. IDER considered that the members of the Committee should indeed take the opportunity of studying in greater depth the document produced by the non-governmental organization in order to decide subsequently whether they wished to maintain their offer to send a representative of the Committee to Panama or to reply positively to the request by the Panamanian delegation and to postpone the offer until the following session.

33. The CHAIRMAN noted that the Committee wished to proceed in that way. He said that the Committee had concluded its consideration of the additional information submitted by Panama (E/1989/5/Add.8).

34. Mr. Velasquez and Mrs. Vallarino (Panama) withdrew.

The meeting rose at 4.40 p.m.